

EMPLOYMENT AGREEMENT
(Director of Pathology Services)

THIS AGREEMENT is made as of the 1st day of May, 1995, by and between HEALTH MIDWEST and L. PATRICK JAMES, M.D., (hereinafter referred to as "the Employee").

WITNESSETH:

WHEREAS, Health Midwest serves as the parent holding company for the Health Midwest System, which is a comprehensive integrated regional system of organizations dedicated to the delivery of health care services to the Kansas City metropolitan area and the surrounding region and which includes, but is not limited to, Research Medical Center ("RMC"), Research Belton Hospital ("RBH") and several other hospitals (collectively referred to herein as "the Hospitals");

WHEREAS, RMC, RBH and the other Hospitals have each established a Pathology Department and Pathology Laboratory at their respective facilities which provide pathology services and laboratory testing services for their patients and for patients of their medical staffs; and

WHEREAS, the Employee is a physician who is licensed by the State of Missouri, qualified by proper and adequate education, training and practice in the field of pathology and knowledgeable and experienced in the provision of pathology services within the Health Midwest System; and

WHEREAS, Health Midwest desires to employ the Employee to serve as the overall Director of Pathology and Laboratory Services for Health Midwest System and to furnish direct medical supervision of the Pathology Department of RMC and RBH; and

WHEREAS, the Employee desires to accept employment by Health Midwest for such purposes upon the terms and conditions set forth herein ;

NOW, THEREFORE, in consideration of the agreements herein contained, it is mutually agreed and covenanted between the undersigned parties as follows:

1. Employment as Director of Pathology and Laboratory Services for Health Midwest. Health Midwest employs the Employee to serve in the capacity of Director of Pathology and Laboratory Services for the Health Midwest System, and the Employee accepts employment with Health Midwest for such purpose. During the term of this Agreement, the Employee will render full-time professional services in his capacity as Director of Pathology and Laboratory Services for the term of this Agreement and will at all times faithfully, industriously and to the best of his ability, perform all duties that may be required of him by virtue of such position. The Employee's specific duties include integration of the existing pathology groups at RMC, RBH, Baptist Medical Center ("BMC"), Trinity Lutheran Hospital ("TLH"), Medical Center of Independence ("MCI"), Menorah Medical Center ("MMC") Menorah Health Center ("MHC"), and following closing of a separate Integration Agreement, Park Lane Medical Center ("PLMC"), into one group for the provision of pathology services at their facilities and overall supervision of the activities of such integrated pathology group and the other pathology groups performing services at the Hospitals as further described in paragraph 2 of this Agreement. The Employee's specific duties also include direct supervision of the medical aspects of RMC's and RBH's Pathology Department and all laboratory services rendered in RMC and RBH as further described as paragraph 3 below.

2. Integration, Coordination and Supervision of System-Wide Pathology Groups and Clinical Laboratory Services. As Director of Pathology and Laboratory Services for Health Midwest, the Employee is responsible for the leadership, supervision and coordination of pathology and clinical laboratory services within the Health Midwest System. Such responsibility includes:

(a) evaluating the advice provided by Chi Laboratory Systems for consolidation of the pathologists and pathology groups at RMC, RBH, TLH, MCI, BMC, MMC, MHC, and PLMC into a single, integrated pathology group, making recommendations to the Executive Vice President of Health Midwest regarding the plan for such consolidation and integration, and otherwise leading and assisting Chi Laboratory Systems and Health Midwest in the implementation of the consolidation and integration plan approved by Health Midwest;

(b) assisting the Hospitals in selection of the pathologist designated to serve as medical director of the Pathology Department at their respective facilities and furnishing general oversight of the medical directors' activities as necessary to assure that the pathology services rendered within such Departments are performed in a competent, professional and ethical manner consistent with the terms of their respective service contracts;

(c) evaluating and implementing the steps necessary to reduce duplication of pathology and clinical laboratory services within the Health Midwest System;

(d) making recommendations regarding the information systems necessary to effectively manage the System-wide delivery of pathology and clinical laboratory services; and

(e) otherwise leading and assisting the Hospitals in the quality, cost-effective delivery of pathology and clinical laboratory services.

3. Medical Direction and Professional Services at RMC and RBH. The Employee assumes direct, day to day responsibility for, and control of, the conduct and operation of the medical aspects of RMC's and RBH's Pathology Department and all laboratory services rendered in RMC and RBH in conformance with the requirements herein. The activities of RMC's and RBH's Pathology Department include Clinical Pathology, Surgical Pathology, Outpatient Services, Autopsy Procedures, BioChemical Procedures, Microbiological procedures, Clinical Radioimmunoassay Procedures and other related pathology tests, procedures and studies, together with the provision of outside laboratory testing services to members of the Medical Staff and to organizations affiliated with RMC and RBH. Any new tests and procedures which require capital expenditure or an increase in operating expenditure shall be subject to joint approval of the Employee and RMC. The scope of the Employee's responsibilities include supervision and administration of all activities of RMC's and RBH's Pathology Department, including:

(a) verification that each pathologist retained to provide services within the Pathology Department satisfies the applicable requirements for education, training and certification;

(b) performance of pathology tests within the Pathology Department;

(c) performance of quality assurance review and oversight for the Pathology Department, including appropriate follow-up needed to remedy identified problems with quality of care;

(d) promotion, organization, supervision, and program development for the Pathology Department;

- (e) consultation with the Medical Staff and personnel of RMC and RBH regarding patient care plans, review of current and future patient care procedures, and utilization of facilities;
- (f) evaluation, advice and direction of the care of patients utilizing the services of the Pathology Department;
- (g) preparation of, or causing the preparation of, all necessary reports for the records of RMC, RBH and the attending physician on all patients to whom services are rendered;
- (h) distribution to an approved school of Medical Technology for use by the school in instructing and educating students, test results performed as part of RMC's and RBH's outside laboratory services;
- (i) provision of clinical instruction, training, and information to the other pathologists and RMC/RBH staff relating to the Pathology Department;
- (j) attendance at Medical Staff meetings as necessary to represent the Pathology Department;
- (k) participation in Medical Staff conferences, teaching programs and other pertinent activities relating to the services of the Pathology Department; and
- (l) performance of such other functions within the Pathology Department as may be necessary to assure RMC's and RBH's compliance with the requirements of appropriate certifying and accrediting bodies such as the Missouri Division of Health, American Medical Association, and the Joint Commission on Accreditation of Health Care Organizations.

4. Professional Qualifications of Director. At all times during the term of this Agreement, the Employee must meet the following minimum qualifications:

- (a) hold a currently valid and unrestricted license to practice medicine in the State of Missouri;
- (b) have no reprimands or censures on record from the Board of Registration for the Healing Arts of the State of Missouri;
- (c) maintain membership on the active Medical Staff of RMC/RBH, with privileges to perform pathology services; and
- (d) maintain current certification by the American Board of Pathology in Clinical Pathology and/or Anatomic Pathology.

5. Compensation. In consideration for his services as Director of Pathology and Laboratory Services, Health Midwest agrees to pay to the Employee such compensation as they shall mutually agree upon at the annual review of his compensation by the Executive Vice President and President of Health Midwest. This annual review shall occur prior to each January 1 each year of the contract for the express purpose of considering adjustments. Changes in salary will become effective January 1 during the term of this Agreement. The agreed compensation shall be payable in equal monthly installments throughout each contract year.

6. Standard Fringe Benefits.

(a) The Employee shall be eligible to participate in all of the fringe benefit programs which are set forth in **EXHIBIT A** attached hereto and made a part hereof and in any improvements or decreases made in those programs for executive personnel of Health Midwest.

(b) The Employee shall be entitled to four (4) weeks of compensated vacation time in each of the contract years and may carry over time to succeeding years in accordance with the Health Midwest vacation policy.

(c) Upon approval of the Executive Vice President of Health Midwest, the Employee will be permitted to be absent during working days to attend professional meetings and to attend to professional duties in the health care field that are related to his duties under this Agreement.

7. Professional Malpractice Insurance. Selection of the insurance carrier which issues the policy of malpractice insurance covering the Employee shall be made by Health Midwest as an expense of its operations; provided the Employee executes the Power of Attorney attached hereto as **EXHIBIT B**. If the Employee's employment is terminated for any of the reasons referred to in paragraph 16, then the Employee shall reimburse Health Midwest for any cost incurred by it for purchase of an extended reporting endorsement (i.e.: tail coverage) to the malpractice insurance maintained by Health Midwest for the Employee hereunder. Upon any other termination of the Employee's employment, whether by reason of retirement, death, disability, or otherwise, the Employee shall not be obligated to reimburse Health Midwest's cost of obtaining tail coverage for the malpractice insurance maintained by it for the Employee hereunder.

8. Dues. Health Midwest agrees to pay the medical staff dues and professional association dues of Employee as are approved by the Executive Vice President of Health Midwest as being in the best interests of Health Midwest. Health Midwest shall reimburse the Employee for all reasonable expenses incurred by him incident to attendance at professional meetings and shall reimburse the Employee for such reasonable entertainment expenses incurred by the Employee in furtherance of Health Midwest's interests.

9. Automobile and Mobile Telephone Expenses. Health Midwest agrees to furnish for the use of the Employee a mobile telephone, leased or purchased in accordance with the current policies of Health Midwest and reimburse the Employee for expenses of its operation. Health Midwest also agrees to pay to Employee an automobile allowance in an amount to be determined from time to time in accordance with the then current Health Midwest policies. Personal use of the mobile telephone will be accounted for in accordance with Internal Revenue Service ("IRS") regulations and policies. The automobile allowance will be reported to the IRS and other taxing authorities in accordance with their applicable regulations and policies.

10. Term. The initial term of this Agreement shall commence _____, 1995 and continue for a period of one year. Thereafter, this Agreement shall automatically renew from year to year, unless either party gives notice of termination in accordance with the provisions of paragraph 11, 12 or 13 hereof.

11. Early Termination by Health Midwest. The Executive Vice President or President of Health Midwest may terminate the Employee's employment for any reason effective as of the date set forth in a written notice delivered to the Employee. After the effective date of such termination, all rights, duties and obligations of both parties under this Agreement shall cease, and all other legal and equitable rights of the parties, whether in tort or in contract, shall be extinguished, except that Health Midwest shall continue to pay to the Employee his then current monthly salary for the month in which his duties were terminated and shall continue such monthly payments at the same rate for twelve consecutive months thereafter as an agreed upon termination payment. During this twelve-month period, the Employee shall not be required to perform any

duties for Health Midwest or come to work at Health Midwest's premises or the premises of any of the Hospitals. Neither shall the fact that the Employee seeks, accepts and undertakes other employment during this period affect such payments. In addition, for the period of time during which severance payments are being made, the Employee may continue his health and dental insurance coverage through the Consolidated Omnibus Budget Reconciliation Act (COBRA). During the severance period only, Health Midwest will pay the same monthly premium as if the Employee were employed, plus 2%. If the Employee elects to continue his health and/or dental insurance coverage for the remainder of the COBRA continuation period (i.e. for an additional six months), he will be responsible for the entire premium plus 2%. Health Midwest will continue, during the period in which severance payments are being made, such other group insurance programs that were applicable to the Employee during his employment, provided administrative letters from the appropriate carriers and/or conversion coverage may be obtained. In the event the Employee is not qualified for such benefits pursuant to the rules and regulations of the insurance carrier or the regulations of the Internal Revenue Service, Health Midwest will pay to the Employee cash amounts equal to its then current cost of providing such benefits.

12. Early Termination by Employee Upon Change in Duties. Should Health Midwest change the Employee's duties so it can reasonably be found that he is no longer performing the duties as specified herein, the Employee shall have the right, in his complete discretion, to terminate this Agreement by sending sixty (60) days prior written notice to the Executive Vice President or President of Health Midwest. After the effective date of such termination, all rights, duties and obligations of both parties shall cease, and all other legal and equitable rights of the parties, whether in tort or in contract, shall be extinguished, except that Health Midwest shall continue to pay to the Employee his then current monthly salary for the month in which his duties were terminated and for twelve consecutive months thereafter as the agreed upon termination payment. During this period, the Employee shall not be required to perform any duties for Health Midwest or come to work at Health Midwest's premises or the premises of any of the Hospitals. The Employee, however, shall have the duty to seek other employment to mitigate his damages and the compensation which the Employee receives during such twelve-month period shall reduce Health Midwest's obligation to make severance payments. In addition, for the period of time during which severance payments are being made, the Employee may continue his health and dental insurance coverage through the Consolidated Omnibus Budget Reconciliation Act (COBRA). During the severance period only, Health Midwest will pay the same monthly premium as if the Employee were employed, plus 2%. If the Employee elects to continue his health and/or dental insurance coverage for the remainder of the COBRA continuation period (i.e. for an additional six months), he will be responsible for the entire premium plus 2%. Health Midwest will continue, during the period in which severance payments are being made, such other group insurance programs that were applicable to the Employee during his employment, provided administrative letters from the appropriate carriers and/or conversion coverage may be obtained. In the event the Employee is not qualified for such benefits pursuant to the rules and regulations of the insurance carrier or the regulations of the Internal Revenue Service, Health Midwest will pay to the Employee cash amounts equal to its then current cost of providing such benefits.

13. Early Termination by Employee at His Discretion. Should the Employee in his discretion elect to terminate this Agreement for any reason other than as stated in paragraph 12, the Employee shall give the Executive Vice President or President of Health Midwest one hundred twenty (120) days prior written notice of his decision to terminate. At the end of the one hundred twenty (120) day period, all rights, duties and obligations of both parties to this Agreement shall cease; provided that Health Midwest may, at its option, designate an earlier date for the termination of the Employee's employment within said one hundred twenty (120) day period and the Employee's pay shall cease as of the date so designated by Health Midwest.

14. Restrictive Covenant. The Employee, for a period of one year following the termination of his employment pursuant to paragraph 13, will not, without the consent of Health Midwest, accept any

position in an executive capacity or with responsibilities similar to those with a hospital or health care system in the seven-county greater Kansas City metropolitan area or within a 200-mile radius of Kansas City. Except for the limitations specifically set forth herein, the Employee shall be free to engage in work and perform services for himself or for any other person, firm or corporation without limitation.

15. Early Termination Upon Death or Disability of Employee. Upon the death or disability of the Employee, this Agreement shall terminate and all rights, duties and obligations of both parties shall cease, except for the payments of benefits to the Employee and his beneficiaries pursuant to any death benefit, long-term disability, pension and other fringe benefit plans then in effect which have death or disability benefits.

16. Exceptions to Salary Continuation and Other Severance Benefits. Notwithstanding any other provision herein to the contrary, in the event that the Employee is terminated (a) for embezzlement or similar conduct that could constitute a crime, regardless of whether such conduct has resulted in prosecution, (b) for conviction of a felony, whether or not related to performance of the Employee's duties under this Agreement, (c) for failure to maintain the professional qualifications required under paragraph 4, or (d) for any breach of Employee's duty to maintain the confidentiality of Health Midwest's business information which breach has caused damage to Health Midwest's competitive position in the marketplace or the competitive position of any of the Hospitals, Employee shall not be entitled to receive any salary continuation or other severance benefits, and any release of rights stated herein shall not extend to Health Midwest's right to seek redress for damages caused by the Employee's conduct.

17. Practice of Medicine. It is expressly understood that neither Health Midwest nor any of the Hospitals at which the Employee renders services pursuant to this Agreement shall be considered or deemed to be engaged in the practice of medicine. Accordingly, subject to the basic goals, guiding principles and administrative policies of Health Midwest and the applicable Hospitals, all decisions concerning the manner or methods of treatment of patients shall be made solely by the Physician.

18. Access to Records. In accordance with the provisions of (v)(1)(I) of Section 1861 of the United States Social Security act, the Employee agrees, for a period of four (4) years following the rendering of services under this Agreement, to make available, upon written request, to the Secretary of the Department of Health and Human Services, the Comptroller General of the United States, or any of their duly authorized representatives, the contract, books, documents, and records necessary to certify the nature and extent of the costs of the services provided under this Agreement. The Employee further agrees that, should he execute a subcontract with a related organization for the performance of services under this Agreement, he shall require such subcontract to contain a similar provision requiring the organization to make available the contract, books, documents, and records relating to those services as set forth above. In the event that such a request is made for said books, documents, or records, the Employee shall notify the President of Health Midwest regarding the release of such information.

19. Compliance with Medicare and Medicaid Anti-Kickback and Physician Self-Referral Statutes. Notwithstanding any unanticipated effect of any of the provisions herein, no party intends to violate the federal Medicare and Medicaid Anti-Kickback Statute and/or the federal Physician Self-Referral Statute, as such provisions are amended from time to time. Accordingly, the parties acknowledge that, although the Employee is obligated to provide medical and administrative services for the benefit of the community as specified in this Agreement, there is no obligation of the Employee to refer patients to any health care provider affiliated with Health Midwest, nor any intent to influence the judgment of the Employee regarding where the Employee's patients receive health care services. The parties intend that this Agreement meet the requirements of: (a) the employment exception to the Medicare and Medicaid Anti-Kickback Statute which is set forth in 42 U.S.C. Section 1320a-7b(b)(3)(B), and (b) the bona fide employment relationship exception to the Physician Self-Referral Statute which is set forth in 42 U.S.C. Section 1395nn(e)(2) and the corresponding

regulations. This Agreement shall be construed consistent with compliance with such statutes and regulations. The payments to the Employee hereunder are fair market value for the services rendered based upon arm's length bargaining and the value of similar services in the community. Such payments are intended solely as compensation for the medical services personally performed by the Employee under this Agreement.

20. Effects on Prior Agreements. Upon the effective date of this Agreement, the Medical Director Agreement between RMC and the Employee dated effective July 1, 1993 shall automatically terminate and neither party shall have any further responsibility thereunder.

21. Entire Agreement. This Agreement constitutes the entire agreement between the parties and contains all the agreements between them with respect to the subject matter hereof. It supersedes any and all other agreements or contracts, either oral or written, between the parties with respect to the subject matter hereof.

22. Amendment. Except as otherwise specifically provided, the terms and conditions of this Agreement may be amended at any time by mutual agreement of the parties, provided that before any amendment shall be valid or effective, it shall have been reduced to writing and approved by the President of Health Midwest and by the Policy Committee of the Board of Health Midwest.

23. Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect its other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision has been omitted.

24. Assignment. This Agreement shall be binding upon and inure to the benefit of Health Midwest, its successors and assigns, and shall be binding upon and inure to the benefit of the Employee, his personal representatives, legatees, heirs and assigns; provided, however, if Health Midwest shall assign this Agreement to any entity other than a System Employer as that term is defined in the Health Midwest Pension Plan, as it may be amended from time to time, such assignment shall be deemed to be a change of the Employee's duties so that the provisions of paragraph 12 hereof shall become effective and the Employee shall have the right to terminate as described therein.

25. Governing Law. This Agreement shall be construed and enforced under and in accordance with the laws of the State of Missouri.

HEALTH MIDWEST

By:

Dan H. Anderson, President

Exce Vice President

L. PATRICK JAMES, M.D.

EXHIBIT B

POWER OF ATTORNEY

POLICY NO.: _____

I, L. PATRICK JAMES, do hereby certify that the premium for the above-designated policy has been advanced on my behalf by HEALTH MIDWEST in consideration of which I hereby make, constitute and appoint HEALTH MIDWEST my attorney-in-fact with full power and sole authority to act in my stead for the following specified purposes:

1. To execute any and all releases, notices, or other documents necessary to effect cancellation of the above-designated policy, and any successor policies thereto.
2. To receive the return premium due upon cancellation of the above-designated policy, and any successor policies thereto.
3. To purchase a substitute policy of professional liability insurance coverage with the same or a different insurance carrier whenever the above designated policy is cancelled or non-renewed. Any substitute policy may vary the terms of coverage so long as it meets the minimum standards prescribed by the medical staff of Research Medical Center.


Dated this _____

1st

day of

June, 1995


(Signed) L. PATRICK JAMES


(Witness)

2316 E. Meyer Blvd, KC mo
(Mailing Address of Witness)

64132